MARTIN LOOR-O	RDONEZ.
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Civil Action No.

Plaintiff.

v.

BJ'S WHOLESALE CLUB, INC., AND JOHN DOE I-III

Defendants.

Defendants.

# DEFENDANT BJ'S WHOLESALE CLUB, INC.'S NOTICE OF REMOVAL

Defendant BJ's Wholesale Club, Inc. (hereinafter referred to as "BJ's" or "Defendant") files this Notice of Removal pursuant to 28 U.S.C. §1441(a) and (b) to remove this action from the Superior Court of New Jersey, Law Division, Hudson County, where it is now pending, to the United States District Court for the District of New Jersey. Defendant, in support thereof, states as follows:

- A Civil Action has been brought against Defendant by the Plaintiff Martin Loor Ordonez
   (hereinafter referred to as "Plaintiff") and is pending in the Superior Court of New Jersey,
   Law Division, Hudson County, docket number HUD-L-002028-22. A copy of Plaintiff's
   Complaint is attached hereto as Exhibit "A".
- 2. The State Court wherein this action was originally filed is located in Hudson County, New Jersey, which is embraced within this jurisdictional district.
- 3. Removal from the Superior Court of New Jersey Law Division, Hudson County is proper under 28 U.S.C. §§1441(a) and (b), which authorizes the removal of any civil action of which the District Courts of the United States has original jurisdiction and if "none of the

- parties in interest properly joined and served as a defendant is a citizen of the state in which such action is brought." (emphasis added).
- 4. This Court has original jurisdiction over the subject matter under 28 U.S.C. §1332 as the parties in interest properly joined and served are citizens of different states, and the matter in controversy exceeds \$75,000.00 as set forth below.
- 5. Specifically, in the alleged accident that is the subject of Plaintiff's Complaint, Plaintiff claims that on July 4, 2020, as a result of the negligence of the Defendant, he was caused to sustain serious injury causing [him] to suffer great pain and will in the future be caused to suffer great pain; [he] was caused to incur medical expenses and will in the future be caused to incur medical expenses, [and he] was caused to suffer permanent injury." See Exhibit "A", Count One, ¶6.
- 6. Plaintiff also demands judgment against Defendant, for damages, pain of suffering and infliction of emotional distress, together with attorney's fees, interest, costs of suit and any other relief the Court deems just and equitable." See Exhibit "A".
- 7. Further, Plaintiff's counsel has relayed a demand of \$200,000.00 based on alleged surgery claims. Please see the attached correspondence dated July 18, 2022. <u>See</u> Exhibit "B".
- 8. In addition, our office sent out a stipulation of damages to Plaintiff's counsel requesting that Plaintiff stipulate as to \$75,000.00 in damages. To date, Plaintiff has not signed and returned same. See Exhibit C.
- 9. As such, based on the serious and permanent personal injury claims, including alleged surgery claims, significant medical treatment and lost earnings that Plaintiff claims have resulted from the negligence, carelessness and recklessness of Defendants, and the fact that Plaintiff has relayed a demand of \$200,000.00, it is Defendant's position that this this Court's jurisdictional threshold has been met.

- 10. Additionally, removal is proper as the parties are citizens of different states as Plaintiff is a citizen of New Jersey and Defendant BJ's Wholesale Club, Inc., is a Delaware corporation with a principal place of business in Massachusetts.
- 11. As such, based on the serious and permanent personal injury and economic damages claims that Plaintiff claims have resulted from the negligence and carelessness of Defendant and because Plaintiff has made a demand of \$200,000.00, it is Defendant's position that this Court's jurisdictional threshold limits have been met. See Exhibits "A", "B" "C" and "D."
- 12. This removal is also timely, as this case was filed on or about June 21, 2022, and was served or otherwise received by Defendant on or about the same date. This Notice of Removal is being timely filed within 30 days of service or receipt of the Complaint by Defendant, and within one year of the filing of the Complaint, pursuant to 28 U.S. Code § 1446.
- 13. Thus, Removal from the Superior Court of New Jersey, Law Division, Hudson County is proper under 28 U.S.C. §1441(a) and (b).
- 14. This Court has original jurisdiction over the subject matter under 28 U.S.C. §1332 as the parties are citizens of different states, and the matter in controversy exceeds \$75,000 as set forth above. Also, counsel for Defendant sent a proposed stipulation of damages in the amount of \$75,000.00, which has not been returned to date. Based on Plaintiff's claims for serious and permanent personal injuries, economic damages, significant medical treatment, as well as the fact that Plaintiff has relayed a demand of \$200,000.00, this Court does not have to guess as to whether Plaintiff is seeking an amount in excess of \$75,000.

15. Based on the foregoing, the requirements of 28 U.S.C. §1441(a) and (b), 1446 and 1332 have been satisfied and the within matter is properly removable.

WHEREFORE, Defendant BJ's Wholesale Club, Inc. respectfully requests that the State Action be removed from the Superior Court of New Jersey, Law Division, Hudson County to the United States District Court for the District of New Jersey.

Dated: July 19, 2022

BY: s/John McConnell

John M. McConnell, Esquire (028152006)

**GOLDBERG SEGALLA LLP** 

301 Carnegie Center Drive, Suite 200, Princeton, NJ 08540-6587 609-986-1326 609-986-1301 - Fax

Attorneys for Defendant BJ's Wholesale Club, Inc.

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: Civil Action No.

v.

BJ'S WHOLESALE CLUB, INC., AND JOHN DOES I-III.

Defendants.

Plaintiff,

I, John M. McConnell, hereby certify that a true and correct copy of the foregoing Notice of Removal, and supporting documents, and Jury Demand were filed with the Court and served on all counsel of record via email on this 19<sup>th</sup> day of July 2022.

Dated: July 19, 2022

BY: s/John McConnell

John M. McConnell, Esquire (028152006)

GOLDBERG SEGALLA LLP

301 Carnegie Center Drive, Suite 200, Princeton, NJ 08540-

6587 609-986-1326 609-986-1301 - Fax

Attorneys for Defendant BJ's Wholesale

Club, Inc.

## Case 2:22-cv-04651-EP-ESK Document 1 Filed 07/20/22 Page 7 of 21 PageID: 7 CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS				DEFENDANTS					
WALTER LOOR ORDONEZ				BJ'S Wholesale Club					
(b) County of Residence of First Listed Plaintiff HUDSON (EXCEPT IN U.S. PLAINTIFF CASES)			_	County of Residence of First Listed Defendant MASSACHUSETTS (IN U.S. PLAINTIFF CASES ONLY)  NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.					
(c) Attorneys (Firm Name, Address, and Telephone Number) Agrapidis & Maroules, P.C., Michael T. Valentino, Esq., 777 Terrace Avenue, Suite 504, Hasbrouck Heights, NJ 07604, 201-288-050			0	Attorneys (If Known) Goldberg Segal Center Drive, S				l Carne	egie
		-							
II. BASIS OF JURISD	GCTION (Place an "X" in the Company of the Company			FIZENSHIP OF PR (For Diversity Cases Only) PT n of This State	F DEF		nd One Box for I		
2 U.S. Government Defendant	Diversity     (Indicate Citizenshi)	ip of Parties in Item III)		n of Another State		Incorporated and P of Business In A		_ 5	<b>X</b> 5
	-			n or Subject of a eign Country		Foreign Nation		□ 6	6
IV. NATURE OF SUIT		nly) RTS	l ro	RFEITURE/PENALTY		for: Nature of S KRUPTCY		STATUT	
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excludes Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise  REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	PERSONAL INJURY  310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury Medical Malpractice CYLL RIGHTS 440 Other Civil Rights 441 Voting 442 Employment 443 Housing/ Accommodations 445 Amer. w/Disabilities - Employment 446 Amer. w/Disabilities - Other 448 Education	PERSONAL INJURY  365 Personal Injury - Product Liability  367 Health Care/ Pharmaceutical Personal Injury Product Liability  368 Asbestos Personal Injury Product Liability  368 Asbestos Personal Injury Product Liability  PERSONAL PROPERT  370 Other Fraud  371 Truth in Lending  380 Other Personal Property Damage Product Liability  PRISONER PETITION  Habeas Corpus:  463 Alien Detainee 510 Motions to Vacate Sentence 530 General  335 Death Penalty  Other:  540 Mandamus & Othe 550 Civil Rights 555 Prisn Condition 560 Civil Detainee - Conditions of Confinement	7   62:   699   699   710   720   740   75   79	Drug Related Seizure of Property 21 USC 881 Other  LABOR D Fair Labor Standards Act D Labor/Management Relations Railway Labor Act Family and Medical Leave Act Other Labor Litigation Employee Retirement Income Security Act  IMMIGRATION Naturalization Application Other Immigration Other Immigration Content of the Property Act	422 App 423 Wif 28 I INTE PROPE 820 Cop 830 Pate Nev 840 Trac 861 HIA 862 Blac 863 DIV 864 SSII 865 RSI FEDER. 870 Tax or I 871 IRS 26	eal 28 USC 158 hdrawal USC 157 ILLECTUAL IRTY RIGHTS syrights ent ent - Abbreviated v Drug Application	375 False C 376 Qui Ta 3729(a 400 State R 410 Antitru 430 Banks: a 450 Comm 460 Deport 470 Racket Corrupi 480 Consur (15 US 485 Teleph Protect 490 Cable/S 850 Securit Exchar 890 Other S 891 Agricu 893 Environ 895 Freedo Act 896 Arbitra 899 Admin Act/Re'	Claims Act m (31 USC m) (31 USC n) leapportion ist and Bankir erce ation eer Influen to Organization eer Influen to Torganization eer Credit C 1681 or one Consult tion Act Sat TV ties/Commonge Statutory A Itural Acts nmental M m of Inforn tion istrative Pr view or Ap y Decision tuttonality y Decision	mment mg meed and tions r 1692) mmer odities/ actions fatters mation
	noved from 3	Remanded from Appellate Court	4 Reins Reop		District	6 Multidistrie Litigation Transfer		Multidis Litigatio Direct F	n -
VI CAUGE OF A COTA	28 U.S.C. 1441(a) and		filing (D	o not cite jurisdictional stati	utes unless di	versity):			
VI. CAUSE OF ACTIO	Brief description of ca Premises Personal Inju								
VII. REQUESTED IN COMPLAINT:	_	IS A CLASS ACTION		EMAND \$ 5,000.00 +		HECK YES only i	f demanded in	complair	nt:
VIII. RELATED CASE IF ANY	(See instructions):	JUDGE			DOCKI	ET NUMBER_HU	JD-L-002028	-22	
DATE		SIGNATURE OF ATTO		F RECORD					
FOR OFFICE USE ONLY		s/ John M. McConnell	'1						
	MOUNT	APPLYING IFP		JUDGE		MAG. JUD	GE		

MARTIN LOOR ORDONEZ,	:
Plaintiff, v.	: Civil Action No. : :
BJ'S WHOLESALE CLUB, INC., AND JOHN DOES I-III	: : :
Defendants.	<u> </u>
	•

**PLEASE TAKE NOTICE** that the undersigned counsel hereby enters an appearance as counsel of record on behalf of Defendant BJ's Wholesale Club, Inc. in the above-entitled action.

**PLEASE TAKE FURTHER NOTICE** that copies of all papers served in this matter should be served upon the undersigned.

Dated: July 19, 2022

BY: s/John M. McConnell

John M. McConnell, Esquire (028152006)

**GOLDBERG SEGALLA LLP** 

301 Carnegie Center Drive, Suite 200, Princeton, NJ 08540-6587 609-986-1326 609-986-1301 - Fax

Attorneys for Defendant BJ's Wholesale Club, Inc.

MARTIN LOOR ORDONEZ,

Civil Action No.

v.

BJ'S WHOLESALE CLUB, INC., AND JOHN DOES I-III

Defendant

Plaintiff,

Defendant

**PLEASE TAKE NOTICE** that pursuant to Federal Rule of Civil Procedure 38, the Defendant BJ's Wholesale Club, Inc. hereby demands a Jury trial in this matter, on all issues triable by jury.

Dated: July 19, 2022

BY: s/John M. McConnell

John M. McConnell, Esquire (028152006)

**GOLDBERG SEGALLA LLP** 

301 Carnegie Center Drive, Suite 200, Princeton, NJ 08540-6587 609-986-1326

609-986-1301 - Fax

Attorneys for Defendant BJ's Wholesale

Club, Inc.

# EXHIBIT A

Michael T. Valentino, Esq., ID#282862018 AGRAPIDIS & MAROULES, P.C. 777 Terrace Avenue - Suite 504 Hasbrouck Heights, New Jersey 07604 (201) 288-0500 ATTORNEYS FOR PLAINTIFF

Marlin Loor Ordonez.

:SUPERIOR COURT OF NEW JERSEY :LAW DIVISION: HUDSON COUNTY

Plaintiff,

:DOCKET NO .: HUD-L-

V.

BJ's Wholesale, AND JOHN DOE I-III, CIVIL ACTION

Defendants.

## COMPLAINT AND JURY DEMAND

Plaintiff, Marlin Loor Ordonez, residing in the Town of Guttenberg, in the County of Hudson, and State of New Jersey, by way of Complaint against the defendants, hereby alleges and says:

#### FIRST COUNT

- 1. At all times hereinafter mentioned, plaintiff, Marlin Loor Ordonez, was a lawful invitee on premises located at 2100 88th Street, in the Township of North Bergen, County of Hudson, and State of New Jersey on July 4, 2020.
- 2. Upon information and belief, plaintiff, Marlin Loor Ordonez, fell due to a dangerous and hazardous condition, to wit, slipped and fell on wet floor on the property of BJ's Wholesale, located at 2100 88th Street, in the Township of North Bergen, County of Hudson, and State of New Jersey on July 4, 2020.
- 3. Upon information and belief, defendant, BJ's Wholesale, is responsible for maintenance and management of the premises located at 2100 88th Street, in the Township of North Bergen, County of Hudson, and State of New Jersey. The defendant is believed to be the owner of that property.

- 4. Upon information and belief, defendant, BJ's Wholesale, is responsible for the maintenance and management of the premises located at 2100 88th Street, in the Township of North Bergen, County of Hudson, and State of New Jersey. The defendant is believed to be the lessee of that property and/or owner of that property.
- 5. Upon information and belief, and in the alternative to the allegations in paragraphs 2, 3 & 4 above, the true name of capacity, whether individual, plural, corporate, partnership, associate or otherwise of defendants, JOHN DOE I-III, are unknown to plaintiff, who, therefore, brings suit against said defendant by such fictitious name. JOHN DOE I-III may be the true owner or operator or party responsible for the maintenance of the property located at 2100 88th Street, in the Township of North Bergen, County of Hudson, and State of New Jersey on July 4, 2020, and is responsible for any dangerous conditions on the premises, for the maintenance and repair of the premises and well-being of plaintiff, Marlin Loor Ordonez, but the full extent of those facts linking the fictitiously designated defendants with the cause of action alleged herein is unknown to plaintiff at this time.
- 6. As a direct and proximate result of the negligence of the defendants, BJ's Wholesale and John Doe I-III, its agents, servants, and/or employees, in the manner in which said premises were maintained and cleaned, the plaintiff, Marlin Loor Ordonez, was caused to fall and sustain serious injury causing her to suffer great pain and will in the future be caused to suffer great pain; she was caused to incur medical expenses and will in the future be caused to incur medical expenses; she was caused to suffer permanent injury.
- 7. Upon information and belief, defendants had actual and/or constructive notice of the dangerous condition described above and failed to remedy this dangerous condition, take precautionary steps to prevent the accident, or give notice to those in the area thereby breaching their duty of care to plaintiff.

WHEREFORE, the plaintiff, Marlin Loor Ordonez, demands judgment against the defendants, BJ's Wholesale and John Doe I-III, jointly and severally for damages, pain and suffering and infliction of emotional distress, together with attorney's fees, interest, costs of

suit and any other relief the Court deems just and equitable.

AGRAPIDIS & MAROULES, P.C.

Attorneys for Plaintiff

By:\_

MICHAEL T. VALENTINO, ESO

DATED:

June 21, 2022

### **DEMAND FOR TRIAL BY JURY**

Plaintiff hereby demands a trial by jury as to all issues raised in the Complaint.

AGRAPIDIS & MAROULES, P.C.

Attorneys for Plaintiff

By:

MICHAEL T. VALENTINO, ESQ.

DATED:

June 21, 2022

## **DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, Michael T. Valentino, Esq., ID#282862018, is hereby designated as Trial Counsel of this matter.

AGRAPIDIS & MAROULES, P.C.

Attorneys for Plaintiff

By:

MICHAEL T. VALENTINO, ESQ.

DATED:

June 21, 2022

#### **CERTIFICATION**

I certify that pursuant to R. 4:5-1, to my knowledge and based on the information available to me at this time, the matter in controversy is not the subject of any other action pending in any Court, or of a pending arbitration proceeding and that no additional parties are known at this time who should be added.

AGRAPIDIS & MAROULES, P.C.

Attorneys for Plaintiff

By: // // // Michael T. Valentino, ESO.

DATED: June 21, 2022

## **DEMAND FOR ANSWERS TO INTERROGATORIES**

Pursuant to R. 4:17-1(b), the plaintiff hereby demands that the defendant provide answers to the Uniform Interrogatories set forth in Form C and C(2) of Appendix II of the Rules Governing the Courts of the State of New Jersey.

AGRAPIDIS & MAROULES, P.C.

Attorneys for Plaintiff

By:

MICHAEL T. VALENTINO, ESQ.

DATED: June 21, 2022

HUD-L-002028-22 06/21/2022 3:20:26 PM **Pg 1 of 1** Trans ID: LCV20**22**23**2**2417

## Civil Case Information Statement

#### Case Details: HUDSON | Civil Part Docket# L-002028-22

Case Caption: LOOR ORDONEZ MARLIN VS BJ'S

WHOLESALE

Case Initiation Date: 06/21/2022

Attorney Name: MICHAEL THOMAS VALENTINO Firm Name: AGRAPIDIS & MAROULES, PC Address: 777 TERRACE AVE STE 504 HASBROUCK HGTS NJ 076040000

**Phone:** 2012880500

Name of Party: PLAINTIFF: Loor Ordonez, Marlin

Name of Defendant's Primary Insurance Company

(if known): Sedgwick

Case Type: PERSONAL INJURY

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same

transaction or occurrence)? NO

Does this case involve claims related to COVID-19? NO

Are sexual abuse claims alleged by: Marlin Loor Ordonez? NO

#### THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO If yes, please identify the requested accommodation:

Will an interpreter be needed? YES

If yes, for what language:

**SPANISH** 

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

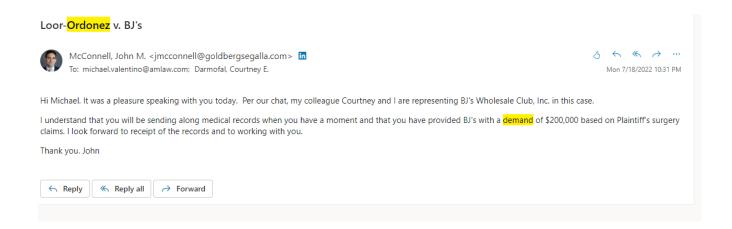
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b)

06/21/2022

/s/ MICHAEL THOMAS VALENTINO Signed

Dated

# EXHIBIT B



# EXHIBIT C



John M. McConnell | Partner Direct 609.986.1326 | jmcconnell@goldbergsegalla.com

July 19, 2022

#### **VIA REGULAR MAIL**

Michael T. Valentino, Esq. 777 Terrace Avenue – Suite 504 Hasbrouck Heights, NJ 07604

Re: Ordonez v. BJ's Wholesale Club, Inc.

Dear Michael:

It was a pleasure speaking with you on July 18, 2022. As discussed, our office represents Defendant BJ's Wholesale Club, Inc in this case. Enclosed please find a Stipulation to Limit Damages. If your client does not sign and return the same, we will take steps to immediately remove this matter to the Federal Court. Thank you very much.

Sincerely,

s/John M. McConnell
John M. McConnell, Esq.

Enclosure

### John M. McConnell, Esq. [028152005]

Goldberg Segalla LLP

Mailing Center: PO Box 580, Buffalo, NY 14201

301 Carnegie Center, Suite 200

Princeton, NJ 08540

609-986-1300

609-986-1301 (fax)

Attorneys for BJ's Wholesale, more properly pled as BJ's Wholesale Club, Inc.

MARLIN LOOR ORDONEZ,	SUPERIOR COURT OF NEW JERSEY
	LAW DIVISION: HUDSON COUNTY
Plaintiff	DOCKET NO. HUD-L-002028-22
v.	CIVIL ACTION
BJ'S WHOLESALE, and JOHN DOE III,	STIPULATION TO LIMIT DAMAGES
Defendants.	

Plaintiff (hereinafter referred to as "Plaintiff") and Defendant named as BJ's Wholesale, more properly pled as BJ's Wholesale Club, Inc. hereby understand and agree to the following:

- 1. Defendant BJ's Wholesale Club, Inc. has the right, pursuant to 28 U.S.C. § 1441 to remove the above captioned matter to Federal Court;
- 2. Defendant BJ's Wholesale Club, Inc. is willing to forego this right in exchange for the agreement of Plaintiff to limit the damages which Plaintiff is entitled to recover in the above captioned matter, if any; and

Cage 4n22e124n0e4651nEne Express Daguenn	rent of Filmhill 449/Beferding B1 of Wholesde Olub, Inc. to
the limitation of damages set forth h	erein, Defendant BJ's Wholesale Club, Inc. will agree not to
exercise its right to remove the above	ve captioned matter to the Federal Court.
Therefore, on this day of	2022, Plaintiff and Defendant BJ's Wholesale
Club, Inc. hereby stipulate and agree that the	e full amount and/or value of any and all damages (including
interest, fees and costs) to which Plain	tiff may be entitled in the above captioned matter shall not
exceed seventy-five thousand dollars and ze	ero cents (\$75,000.00).
AGRAPIDIS & MAROULES, P.C.	GOLDBERG SEGALLA, LLP
Michael T. Valentino, Esq.	John M. McConnell, Esq.
Attorney for Plaintiff	Attorneys for Defendant BJ's Wholesale Club, Inc.
Date:	Date: